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UNITED STATES DISTRICT COURT

FOR THE STATE OF NEVADA

SETH SCHORR,

Plaintiff,

vs.

WOLFF PRINCIPAL HOLDINGS, LP d/b/a
FREMONT & 9TH APARTMENTS;
SCHINDLER ELEVATOR CORPORATION;
DOES I through X; and ROE BUSINESS
ENTITIES I through X, inclusive,

Defendants,

and related cross-claims.

Case No. 2:22-cv-01806-MMD-MDC

**JOINT STIPULATION AND ORDER
TO EXTEND DISCOVERY AND
DISPOSITIVE MOTION DEADLINES**

(SIXTH REQUEST)

IT IS STIPULATED AND AGREED, by and between Plaintiff Seth Schorr, by and through his attorney of record, Nia Killebrew, Esq. of Richard Harris Law Firm; Defendant Wolff Principal Holdings, LP d/b/a Fremont & 9th Apartments, by and through its attorney of record, David S. Lee, Esq. of Lee, Landrum & Ingle, and Defendant Schindler Elevator Corporation, by and through its attorney of record, Jay J. Schuttert of Evans Fears Schuttert McNulty Mickus, that the January 27, 2025 discovery cut off, February 24, 2025 dispositive motion, and March 24, 2025 pretrial order deadlines in the Stipulation and Order to Modify Discovery Plan and Scheduling Order to Extend Discovery Deadlines [ECF NO. 39] be continued by 60 days as follows:

I. DISCOVERY COMPLETED TO DATE

- The parties participated in the Fed. R. Civ. P. 26(f) conference on December 6, 2022.
- Plaintiff produced his Initial Fed. R. Civ. P. 26(a) Disclosures on December 9, 2022.
- Plaintiff produced his 1st Supplement to Initial Fed. R. Civ. P. 26(a) Disclosures on March 6, 2023.
- Defendant Wolff Principal Holdings, LP dba Fremont & 9th Apartments produced its Initial Fed. R. Civ. P. 26(a) Disclosures on January 25, 2023.
- Defendant Schindler Elevator Corporation produced its Initial Fed. R. Civ. P. 26(a) Disclosures on January 4, 2023.
- Defendant Schindler Elevator Corporation produced its 1st Supplement to its Initial Fed. R. Civ. P. 26(a) Disclosures on February 3, 2023.
- Plaintiff served Interrogatories and Requests for Production of Documents to Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments.
- Plaintiff served Interrogatories and Request for Production of Documents to Defendant Schindler Elevator Corporation.
- Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments served 1st Set of Interrogatories and 1st Set of Request for Production of Documents to Plaintiff.
- Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments served 2nd Set of Interrogatories and 1st Set of Requests for Admissions to Plaintiff.
- Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments served 1st Set of Interrogatories 1st Set of Request for Production of Documents and 1st Set of Requests for Admissions to Defendant Schindler Elevator Corporation.
- Defendant Schindler Elevator Corporation served 1st Set of Interrogatories and 1st Set of Requests for Production of Documents to Plaintiff.
- Plaintiff served his responses to Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments' 1st Set of Interrogatories, 2nd Set of Interrogatories, 1st Set of Request for Production of Documents, and 1st Set of Requests for Admissions.

- 1 • Plaintiff served his responses to Schindler Elevator Corporation' 1st Set of Interrogatories
2 and 1st Set of Requests for Production of Documents, 2nd Set of Interrogatories and 2nd Set
3 of Requests for Production of Documents.
- 4 • Defendant Schindler Elevator Corporation served its responses to Defendant Wolff
5 Principal Holding, LP dba Fremont & 9th Apartments' 1st Set of Request for Production of
6 Documents and 1st Set of Requests for Admissions.
- 7 • Defendant Schindler Elevator Corporation produced its 2nd Supplement to its Initial Fed.
8 R. Civ. P. 26(a) Disclosures on April 17, 2023.
- 9 • Plaintiff produced his 2nd Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on April
10 21, 2023.
- 11 • The parties and their experts conducted an inspection of the subject elevator on May 4,
12 2023.
- 13 • Plaintiff produced his 3rd Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on May
14 23, 2023.
- 15 • Plaintiff produced his 4th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on June
16 22, 2023.
- 17 • Defendant Schindler Elevator Corporation produced its 3rd Supplement to its Initial Fed.
18 R. Civ. P. 26(a) Disclosures on July 5, 2023.
- 19 • Plaintiff produced his 5th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on July 11,
20 2023.
- 21 • Defendant Schindler Elevator Corporation produced its 4th Supplement to its Initial Fed.
22 R. Civ. P. 26(a) Disclosures on July 19, 2023.
- 23 • Plaintiff produced his 6th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on July 25,
24 2023.
- 25 • Plaintiff produced his 7th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on August
26 10, 2023.
- 27 • Defendant Schindler Elevator Corporation produced its 5th Supplement to its Initial Fed.
28 R. Civ. P. 26(a) Disclosures on September 7, 2023.

- 1 • Plaintiff produced his 8th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on
- 2 September 7, 2023.
- 3 • The deposition of Plaintiff Seth Schorr was taken on September 17, 2023.
- 4 • Plaintiff produced his 9th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on
- 5 September 28, 2023.
- 6 • Plaintiff produced his 10th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on
- 7 November 1, 2023.
- 8 • The independent medical examination of Plaintiff was performed on November 20, 2023.
- 9 • Defendant Schindler Elevator Corporation produced its 6th Supplement to its Initial Fed.
- 10 R. Civ. P. 26(a) Disclosures on December 6, 2023.
- 11 • The deposition of Schindler employee Michael Patton was taken on December 7, 2023.
- 12 • Plaintiff served his 3rd Set of Requests for Production of Documents to Schindler.
- 13 • The deposition of Defendant Wolff employee Flavio Rubio was taken on January 23, 2024.
- 14 • Defendant Schindler Elevator Corporation produced its 7th Supplement to its Initial Fed.
- 15 R. Civ. P. 26(a) Disclosures on March 6, 2024.
- 16 • The deposition of Defendant Wolff employee Penny Killen was taken on March 26, 2024.
- 17 • Defendant Schindler Elevator Corporation served its responses to Plaintiff's 3rd Set of
- 18 Requests for Production of Documents.
- 19 • Defendant Schindler Elevator Corporation produced its 8th Supplement to its Initial Fed.
- 20 R. Civ. P. 26(a) Disclosures on April 18, 2024.
- 21 • The deposition of Schindler mechanic Joseph Hobby was taken on April 30, 2024.
- 22 • Plaintiff served his 4th Set of Requests for Production of Documents to Schindler.
- 23 • Defendant Schindler Elevator Corporation served its responses to Plaintiff's 4th Set of
- 24 Requests for Production of Documents.
- 25 • Plaintiff served his responses to Schindler's 2nd Set of Interrogatories.
- 26 • Plaintiff produced his Initial Expert Disclosures on July 29, 2024.
- 27 • Defendants Schindler Elevator Corporation and Wolff produced their Initial Expert
- 28 Disclosures on September 3, 2024.

- 1 • The deposition of state inspector Ronnie Blakeny was taken on September 5, 2024.
- 2 • Plaintiff produced his Rebuttal Expert disclosures on October 1, 2024, disclosing Dr.
- 3 Randall E. Yee as an additional expert witness.
- 4 • The deposition of third-party inspector, Greg Neff, was taken on November 21, 2024.
- 5 • The Fed. R. Civ. P. 30(b)(6) deposition of Schindler's corporate designee was taken on
- 6 December 6, 2024.

7 **II. DISCOVERY TO BE COMPLETED**

8 Plaintiff and Defendants respectfully request a 60-day extension of the January 27, 2025
9 discovery cut off date and February 24, 2025 dispositive motion deadline to complete the following
10 expert depositions:

- 11 • The deposition of Plaintiff's damages expert, Dr. Mihir Patel, is set for January 10, 2025;
- 12 • The deposition of Plaintiff's damages expert, Dr. David Oliveri, is set for January 21, 2025;
- 13 • The deposition of Plaintiff's expert, Dennis Olson, which was set for December 12, 2024,
- 14 but postponed until January 23, 2025, to give Mr. Olson sufficient time to review the
- 15 deposition testimony of Greg Neff and Schindler's corporate designee;
- 16 • The deposition of Defendants' co-retained damages expert, Dr. Daniel Lee, is set for
- 17 January 24, 2025;
- 18 • The deposition of Defendants' co-retained damages expert, Dr. Roger Fontes, is set for
- 19 January 27, 2025;
- 20 • The deposition of Plaintiff's rebuttal damages expert, Dr. Randall E. Yee, is set for February
- 21 5, 2025;
- 22 • The deposition of Schindler's expert, John Donnelly, which was set for January 9, 2024,
- 23 but postponed until February 11, 2025 to accommodate Dennis Olson's rescheduled
- 24 deposition;
- 25 • The deposition of Schindler's liability expert, Hanh Le, which was set for January 31, 2025,
- 26 but postponed until February 21, 2025 to accommodate Dennis Olson's rescheduled
- 27 deposition;
- 28

- 1 • The deposition of Defendants' co-retained damages expert, Dr. Staci Ross is set for
- 2 February 24, 2025; and
- 3 • The deposition of Defendant Wolff's liability expert, Michael Fagan, which has not been
- 4 set due to him retiring and Defendant Wolff needing to find a replacement.

5 **III. REASONS DISCOVERY WAS NOT COMPLETED AND GOOD CAUSE**

6 **FOR A DISCOVERY EXTENSION**

7 Good cause exists to extend discovery deadlines if they "cannot reasonably be met despite

8 the diligence of the party seeking the extension." *Johnson v. Mammoth Recreations*, 975 F.2d 604,

9 609 (9th Cir. 1992). The parties have been working diligently to complete discovery in this case,

10 including engaging in significant written discovery, deposing numerous fact witnesses, and setting

11 five expert depositions before the current discovery cutoff. However, despite the parties' best

12 efforts, additional time is needed to complete discovery. Defendant Wolff has been notified that

13 its elevator expert, Michael Fagan, is retiring and counsel is currently working with his office to

14 coordinate a replacement. With the upcoming winter holidays and given that Mr. Fagan is no longer

15 available to appear for deposition or trial, the parties request that the discovery cut off, dispositive

16 motion, and pretrial order deadline be extended by 60 days. This extension will afford Defendant

17 Wolff sufficient time to select a replacement expert, who will in turn need to familiarize him or

18 herself with this case, form his or her opinions, and prepare for his or her expert deposition.

19 Besides Wolff's expert retiring, two other expert witnesses were in any event not available

20 until after the January 27, 2025 discovery cut off. Additionally, the depositions of fact witness

21 Greg Neff and Schindler's corporate designee were pushed to late November and early December

22 to accommodate Schindler's fall 2024 trial conflict. Mr. Olson's deposition, which was originally

23 set for December 12, 2024, was then postponed to January 23, 2025 to allow Mr. Olson sufficient

24 time to review this deposition testimony as well as accommodate the winter holidays. Mr.

25 Donnelly's deposition, which was originally set for January 9, 2025 was in turn postponed to mid-

26 February 2025 to accommodate Mr. Olson's new deposition date. And Hanh Le's deposition,

27 which was originally set for January 31, 2025 was postponed to late-February 2025 accommodate

28 Mr. Olson and Mr. Donnelly's new deposition dates as well.

1 Furthermore, Schindler's counsel, Jay J. Schuttert, will be out-of-state for another product
2 liability trial beginning early-January 2025 and it is expected to go through mid-February 2025.
3 Specifically, Mr. Schuttert is admitted *pro hac vice* and will be involved in the *Johnson v. Monsanto*
4 (Case No. 23CV00614) trial that is pending in Butte County, California before the Honorable Judge
5 Stephen E. Benson. The trial is scheduled to begin on January 13, 2025, with pre-trial conferences
6 scheduled for the week of January 6, 2025. Because this trial is expected to take 3-4 weeks, it will
7 obviously limit Schindler's ability to participate in expert depositions during the month of January
8 and early February 2025. Schindler is able to get coverage for the five expert depositions that will
9 likely take place while Mr. Schuttert is at trial, however, the additional time will allow Schindler's
10 counsel flexibility to participate in the remaining five expert depositions.

11 Given Mr. Fagan's retirement, Mr. Schuttert's trial conflict, the aforementioned expert
12 scheduling conflicts, and the winter holidays, Plaintiff and Defendants agree to a proposed
13 extension of the current January 27, 2025 close of discovery and the February 24, 2025 dispositive
14 motion deadline by 60 days. The parties additionally agree to extend the pretrial order deadline to
15 accommodate the proposed new discovery cut off and dispositive motion deadlines. Counsel for
16 the parties have been diligently working together to prepare this stipulation and obtain an extension
17 of these case management deadlines. The parties are also hoping that the additional 60 days will
18 allow the parties the opportunity to engage in settlement negotiations prior to completing all ten
19 expert depositions. Accordingly, no party is prejudiced by the additional time necessary to conduct
20 the remaining discovery. And the foregoing circumstances constitute good cause to extend the
21 discovery cut off date and dispositive motion deadline, and the parties jointly and in good faith
22 request this Court enter an Order extending the scheduling deadlines in accordance with their
23 stipulation. There is no trial date set in this case.

1 **IV. PROPOSED REVISED DISCOVERY PLAN**

2 The parties hereby stipulate to and propose the following amendments to the current
3 scheduling deadlines:

	Old Deadline	New Deadline
4		
5 Final date to amend pleadings		
6 or add parties:	July 29, 2024	COMPLETED
7 Plaintiff's initial expert disclosures:	July 29, 2024	COMPLETED
8 Defendants' initial expert disclosures:	September 3, 2024	COMPLETED
9 Rebuttal expert disclosures:	October 1, 2024	COMPLETED
10 Discovery cut off:	January 27, 2025	March 28, 2025
11 Dispositive motions:	February 24, 2025	April 25, 2025
12 Pre-Trial Order:	March 24, 2025	May 23, 2025
13 No trial date has been set.		

SUBMITTED BY THE FOLLOWING COUNSEL OF RECORD:

Dated: December 17, 2024.

**EVANS FEARS SCHUTTERT MCNULTY
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/s/ Jay J. Schuttert

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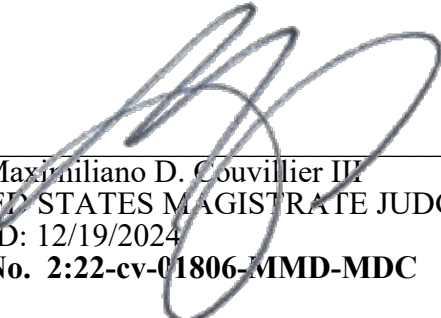
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[PROPOSED] ORDER

IT IS SO ORDERED. Based upon the foregoing stipulation, the 90-day extension to discovery deadlines are granted as follows:

	Old Deadline	New Deadline
Final date to amend pleadings or add parties:	July 29, 2024	COMPLETED
Plaintiff's initial expert disclosures:	July 29, 2024	COMPLETED
Defendants' initial expert disclosures:	September 3, 2024	COMPLETED
Rebuttal expert disclosures:	October 1, 2024	COMPLETED
Discovery cut off:	January 27, 2025	March 28, 2025
Dispositive motions:	February 24, 2025	April 25, 2025
Pre-Trial Order:	March 24, 2025	May 23, 2025
No trial date has been set.		


 Hon. Maximiliano D. Couvillier III
 UNITED STATES MAGISTRATE JUDGE
 DATED: 12/19/2024
 Case No. 2:22-cv-01806-MMD-MDC

Respectfully submitted by:

EVANS FEARS SCHUTTERT MCNULTY MICKUS

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